Informing and advising ministers

Model protocol for VPS engagement with ministerial offices

***[DRAFTING NOTES***

* ***This model protocol should be read as offering the minimum acceptable practice for engaging with ministerial offices.***
* ***To support best possible outcomes, the protocol and the rationale for its implementation should be discussed with the minister(s) and their office(s), as part of building a trusting and collaborative relationship.***
* ***Replace the blue text in this model protocol with text appropriate to your department’s circumstances.***
* ***A separate protocol will soon be available for communications and media staff that formalises acceptable practices involving their work. It will be issued as an addendum to this model protocol and published on the VPSC website.***
* ***Delete these drafting notes prior to publication.]***

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Introduction

This model protocol for VPS engagement with ministerial offices provides a working practice guide for departments to implement the
Victorian Public Sector Commission’s [*Informing and advising ministers*](https://vpsc.vic.gov.au/ethics-behaviours-culture/inform-and-advise-ministers/) resources.

These resources were first released in October 2021, and provide high-level, principles-based guidance for Secretaries, executives and officers about their obligations and responsibilities when informing and advising ministers.

In addition to the obligations detailed in the [*Public Administration Act 2004*](https://content.legislation.vic.gov.au/sites/default/files/2025-02/04-108aa089-authorised.pdf), effective practice at its core also relies on the professional judgement and expertise of senior executives.

This protocol provides guidance and support for how and when to exercise that professional judgement, including when to escalate matters to senior executives or the Secretary. As required by the Act, these judgements must always be guided by the seven [Public Sector Values](https://vpsc.vic.gov.au/ethics-behaviours-culture/public-sector-values/).



1. Summary
2. This document is a protocol approved by the Secretary, to guide engagement between [DEPARTMENT] with the [MINISTER(S)] and their office(s).
3. It sets expectations around, and explains how [DEPARTMENT] staff ensure that communication with, and provision of advice to, ministers and their offices are effective, appropriate and aligned with the [*Code of Conduct for Victorian Public Sector Employees*](https://vpsc.vic.gov.au/wp-content/uploads/2015/03/VPSC_Code_VPSE_WEB.pdf).
4. Key protocols:
	1. The Secretary has authorised deputy secretaries and executive directors to manage communication between [DEPARTMENT] and ministerial advisers.
	2. Any individual employee – or any specific cohort of employees – below executive director level must have the direct authorisation of the Secretary to communicate with staff in the ministerial office.
	3. Policy advice must be provided via [FORMAL BRIEFING SYSTEM], reflecting a whole of [DEPARTMENT] perspective, and be approved by relevant executives.
	4. Where preliminary policy advice has been provided informally, this must be followed up with a brief as soon as is practicable via [FORMAL BRIEFING SYSTEM] (and generally within 7 business days after).
5. Successfully working within the protocol will also rely, at times, on senior executives’ judgement and expertise. Examples where this may be necessary are provided in further detail throughout the protocol and include:
	1. Recognising those exceptional circumstances where it may be appropriate to use informal communication mechanisms (e.g., text or Teams) such as during emergencies
	2. Assessing whether information being provided is ‘factual’ or represents ‘policy advice’ and therefore, whether a formal briefing is needed or an email is sufficient.
	3. Scope
6. **The scope of this protocol is limited to informing or advising ministers on matters affecting policies, projects and public services. It** does not extend to engaging with ministers’ offices about administrative functions such as the organisation of events.
7. **[TEXT FOR INCLUSION WHEN COMMS PROTOCOL IS AVAILABLE – A separate protocol is available for communications and media staff as an addendum to this protocol that formalises acceptable practices involving their work.**
	1. This protocol remains applicable to communications and media staff for matters that aren’t addressed by their separate protocol.]
8. Why is this important?
9. Communications between [DEPARTMENT] and the minister often involve matters of significance and important decision making that will affect the Victorian public.
10. This protocol:
	1. helps departments and ministerial staff avoid miscommunication by ensuring that all the relevant people are involved in any advice or communication
	2. ensures that communication is recorded so that all relevant staff now, and in the future, can understand the decisions that have been made
	3. supports public sector record keeping obligations
	4. protects those involved in providing and receiving advice by ensuring that if advice and decisions are scrutinised in future, there is a clear record of what has occurred.
11. As a Victorian public servant, you must support [DEPARTMENT] to provide apolitical, frank, impartial and timely advice to the government of the day. This is required by the:
	1. public sector values found in section 7 of the *Public Administration Act 2004*
	2. *Code of Conduct for Victorian Public Sector Employees*, issued by the Victorian Public Sector Commission.
12. [DEPARTMENT] is committed to delivering high quality written material, and to demonstrating responsiveness in line with the *Code of Conduct for Victorian Public Sector Employees*.
13. By following this protocol, you are demonstrating the public sector values of responsiveness, integrity, impartiality and accountability.
14. Communicating with the minister’s Office
	1. Who can communicate with the minister’s office?
15. The Secretary is responsible and accountable for the relationship between the minister’s office and [DEPARTMENT].
16. Communication with the minister’s office must only be conducted by departmental staff authorised by the Secretary.
17. The Secretary has authorised deputy secretaries and executive directors to communicate with ministerial offices.
18. Anyone – or any specific cohort of employees – below executive director level must have the direct authorisation of the Secretary to communicate with the minister’s office.
19. A list of [DEPARTMENT] staff authorised to engage with the minister’s office is kept by the Secretary’s office and is available for executives and ministerial office staff.
20. For the avoidance of doubt:
	1. DLOs are [DEPARTMENT] employees and can be contacted by any [DEPARTMENT] employees.
	2. The protocol does not preclude authorised staff from including other staff in their communications with the minister or their office from time to time – e.g. by attending meetings where those staff may be required to contribute subject matter expertise or take notes.
	3. The composition of the Minister’s Office
21. There are generally three categories of staff within a ministerial office:
	1. ministerial advisers, including the Chief of Staff, and media advisers
	2. ministerial support staff, including executive assistants
	3. DLOs, who are departmental staff placed within ministerial offices.
22. Further detail on the Secretary’s direction on engagement with particular types of ministerial office staff is included below.
	* 1. Ministerial advisers and Chiefs of Staff
23. Ministerial advisers and chiefs of staff advise the minister on policy and other issues. They are an important conduit for information flowing between the department and the minister. They are accountable to their minister and can provide political advice.
24. An effective and trusting relationship between [DEPARTMENT] and the minister is supported by an effective and trusting relationship with their advisers.
25. Ministerial advisers are not public service employees and are not authorised to direct public service employees, but will communicate decisions or directions on behalf of the minister.
	* 1. Ministerial support staff
26. Authorisation may be provided for certain [DEPARTMENT] staff, in particular executive assistants or administrative officers, to communicate with ministerial support staff on administrative and logistical matters.
	1. These can include organising events, and facilities, IT and other related ministerial services, particularly for an incoming minister and their office.
		1. DLOs
27. DLOs are [DEPARTMENT] staff that work in ministerial offices. Their role is to facilitate communication on policy and administrative matters between [DEPARTMENT] and the minister’s office.
28. You should consider whether to include the DLO when written information or advice is exchanged between [DEPARTMENT] and minister’s office. You can find out who the DLO for your portfolio is via [INSERT LINK].
	1. Your decision to include the DLO will depend on whether you are sharing information that it will be helpful for that DLO to be aware of.
29. There is no restriction on the level of [DEPARTMENT] employees who are authorised to communicate with DLO. For example, any employee may contact a DLO to find out the status of a brief, or for information about the minister’s availability.
30. Unless you are an executive director or above, or have been specifically authorised otherwise, you must limit your contact with the minister’s office to the DLO.
31. For more information refer to [*Premier’s Circular No. 2015/01 – Department Liaison Officers and other departmental officers in ministerial offices*](https://vgls.sdp.sirsidynix.net.au/client/search/asset/1294785)*.*
32. Providing information to the minister and their office
	1. Summary
		1. Types of information
33. There are generally two types of formal information that a department will provide to a minister and/or their office:
	1. Factual information
	2. Policy advice.
34. Remember that all information and advice provided by the department is officially the Secretary’s advice.
	* 1. Ways of providing information

Formal methods – preferred

1. Briefs and emails are both authorised formal methods of providing factual information to the minister and their office.
2. Briefs are the only authorised formal method of providing policy advice to the minister and their office, except in exceptional circumstances detailed in section 4.3.2.
3. Priority must always be given to using formal methods over any others, with a preference to providing a brief where possible and only emailing when necessary.
4. These methods ensure that the information is recorded and that all who need to be involved can be copied in.

Informal methods – exceptional circumstances

1. Informal methods of providing information include phone calls and instant messaging (including texts and Microsoft Teams).
2. Informal methods of providing information should not be used for formally providing either factual information or policy advice, except under exceptional circumstances detailed in sections 4.2.2 and 4.3.2.
3. These methods are often not as well recorded and may not include all the people who need to know about the information or advice.
	1. Factual information
		1. What is factual information?
4. Factual information:
	1. is objective and not based on opinion
	2. is usually concise and rarely includes interpretation, analysis, or in-depth background
	3. does not seek a ministerial decision.
5. For example, factual information may include research data or a progress update on a consultation process, such as the number of submissions received.
	* 1. How should factual information be provided?
6. If you are not authorised to engage with the minister’s office and have been asked to prepare factual information, you should provide it to the relevant authorised executive for transmitting to the minister’s office.
7. All factual information provided to a minister or their office should come from executives via a brief, or an email if the executive deems this appropriate in the circumstances. Other relevant executives and – where appropriate – the DLO should be copied in.
8. An email is sufficient if the relevant executive considers a brief is not warranted, or time does not permit the preparation of a brief.
	1. Where an email has been used in circumstances where a brief would have been preferable, this should be followed up with a brief as soon as is practicable (and generally within 7 business days after).

Exceptional circumstances

1. Use of informal methods of communication (e.g., phone calls, Microsoft Teams or texts) for providing factual information may only occur in very limited situations, such as:
	1. during an emergency response
	2. where reviewing a brief is not practical, for instance immediately prior to or during:
* question time
* PAEC hearings
* a stakeholder meeting

(or similar circumstances (see section 4.4.1 – Urgency below)).

1. Depending on the significance of the information being provided – as assessed by the relevant executive and/or Secretary – it should then be followed up with a brief, as soon as is practicable (and generally within 7 business days after). Alternatively, the advice may be followed up with an email, in which case the email should be sent within two business days.
	1. Policy advice
		1. What is policy advice?
2. Policy advice is a set of options, or a recommendation, generally with accompanying analysis, to support ministerial or Cabinet decision making.
3. [DEPARTMENT] provides policy advice to ministers so they can make an informed decision. For example, policy advice could include:
	1. one or more proposed course(s) of action to solve a problem
	2. research and analysis to inform strategic or long-term thinking
	3. a proposed approach to making or reviewing legislation
	4. costing of a proposal or scoping of a new initiative.
4. Legal advice – as opposed to policy advice – may have different expectations and requirements around its development, procurement and/or distribution. While a lot of the elements of this protocol may apply, the specific requirements for managing legal advice are not covered by this protocol.
	1. Policy advice may have legal advice attached to it for information. In this case the protocols on the provision of policy advice apply, in addition to any additional requirements about legal advice.
	2. The [General Counsel or equivalent position] has responsibility for legal advice in [DEPARTMENT]. For further advice on the procurement and use of legal advice please contact [LEGAL SERVICES AREA].
		1. How should policy advice be provided?
5. All policy advice should be provided through the [FORMAL BRIEFING SYSTEM].
6. [DEPARTMENT] uses [FORMAL BRIEFING SYSTEM] to manage, register and track ministerial briefs and ministerial correspondence.
7. Formal policy advice is only ever provided for the minister; [DEPARTMENT] does not brief the minister’s office. This does not rule out the discussion of options or appropriate consultation with the minister’s office.
8. You should never provide a brief directly to the minister’s office before it is authorised in the [FORMAL BRIEFING SYSTEM] as a brief to the minister.
9. Briefs can only be provided to the minister after receiving the required approvals from executive directors, deputy secretaries and the Secretary (as appropriate).
10. Briefs must:
	1. be accurate
	2. include up-to-date information
	3. represent an impartial and considered whole of [DEPARTMENT] perspective (see further information below).
11. Department advice is deemed to have been provided to the minister once it is approved by the authorised executive and provided to the minister’s office through the [FORMAL BRIEFING SYSTEM]. Authorised executives should reinforce the expectation that briefings for a Minister, once approved by the department reach the minister promptly.
12. Should a briefing not be provided to the minister, within a reasonable timeframe, or is returned without the minister having viewed it, the authorised officer should escalate to their deputy secretary or secretary. The secretary or deputy may consider discussing the briefing with the chief of staff or providing the briefing directly to the minister.

Exceptional circumstances

1. Policy advice should always be provided via a brief unless in exceptional circumstances, such as:
	1. during an emergency response
	2. where reviewing a brief is not practical, for instance immediately prior to or during:
* question time
* PAEC hearings
* a stakeholder meeting

(or similar circumstances (see section 4.4.1 – Urgency below)).

1. In such circumstances email is preferred over instant messaging or phone calls, where possible.
2. When policy advice is provided via phone or instant messaging remember that the provision of policy advice and any subsequent decision-making must be documented. Phone calls are useful for the timely delivery of advice, but they do not meet documentation requirements for advice or decisions. A commitment must be made and implemented that subsequent documentation will follow.
3. Where possible, in these exceptional circumstances you should aim to provide the policy advice itself by email (copying in others as appropriate, such as more senior executives) and limit instant messaging or phone calls to informing the recipient of the email.
4. Advice that is provided by instant messaging or phone calls must be followed up with a brief as soon as is practicable (and generally within 7 business days after).
	1. Where appropriate, the advice may be first followed up with an email, in which case the email must be sent within two business days.
	2. Other factors to be considered
		1. Urgency
5. Urgency does not dilute the requirement that advice and decisions are properly documented and recorded.
6. If you feel that urgency requires that you operate outside of the bounds of this protocol, you should escalate the issue and discuss with the Secretary.
	* 1. Policy advice in meetings
7. Meetings are sometimes used to provide preliminary policy advice to a minister. This can be provided verbally and/or with visual aids such as slide packs.
8. Even though the advice is preliminary, it is still subject to the authorisation requirements in this protocol.
9. Any materials used in these meetings must be reviewed by relevant executives including executive directors, deputy secretaries and the Secretary (as appropriate) before they are shown to ministers and ministers’ staff.
10. A follow-up brief must be provided to the minister via [FORMAL BRIEFING SYSTEM] to formalise the advice once it is finalised and seek any decisions from the minister that may be required.
11. In circumstances where policy advice is provided in a meeting and a decision is made on the spot, this decision must be formally captured and recorded.
	1. The Secretary or a senior executive present at the meeting should advise that they will provide a written brief where the decision can formally be confirmed.
	2. For more information on this please refer to the two [[*Informing and advising ministers*](https://vpsc.vic.gov.au/ethics-behaviours-culture/inform-and-advise-ministers/)](https://vpsc.vic.gov.au/ethics-behaviours-culture/inform-and-advise-ministers/) resources as appropriate.
	3. Where the type of information or advice is unclear
12. In some situations it might not be obvious whether you are providing factual information or policy advice.
	1. For instance, when reporting on delivery of a project you may consider routine updates of timelines or expenditure as factual information, but advice on how to manage scope overruns or missed deadlines may be considered policy advice.
13. In these circumstances it is the responsibility of senior executives to exercise their judgement – informed by this protocol and other guidance materials – on the most appropriate method of engagement, remembering the importance and obligation to record the information provided.
14. Information that has been provided in line with the guidance above for factual information can always be followed up later with a formal brief should policy advice be required.
15. For more information on providing information on matters of significance and projects please refer to [*Informing and advising ministers – Guidance for executives and officers*](https://vpsc.vic.gov.au/ethics-behaviours-culture/inform-and-advise-ministers/officer-and-executive-guide-for-informing-and-advising-ministers/)
	* 1. Informal engagement in the development of policy
16. There may be times where the department and the minister’s office engage in an informal way to discuss and formulate ideas, especially in the early development of policy.
	1. This protocol does not seek to disrupt these interactions. Informal conversations like these are useful ways for the public service to gain insight into the minister’s views on certain matters, consider any risks that may not have been fully considered and understand any specific requests for advice from the minister.
	2. Secretaries and executives authorised to engage with the office may also discuss the direction of advice or a proposed policy with advisers.
	3. Public servants must remain mindful that they are not to take direction from ministerial advisers, for instance in a way that would restrict them from providing accurate, evidence-based advice in a brief.
	4. Updating briefs
		1. Departmental updates
17. After a brief has been approved and sent to the minister, but not yet actioned by the minister, [DEPARTMENT] may have a reason to update the brief to reflect new or changed information, or to make a correction prior to the minister considering the brief.
18. If this is the case:
	1. the executive should call the original brief back from the ministerial office via the DLO, and
	2. the amended brief must be approved again by the required executive directors, deputy secretaries and the Secretary (as appropriate) before it is provided to the minister.
19. The reason for the update must be attached to the [FORMAL BRIEFING SYSTEM] record by [MINISTERIAL SERVICES AREA] or the area that developed the brief.
	* 1. Requests for updates from the minister or their office
20. One of the reasons [DEPARTMENT] might choose to provide an updated brief is in response to feedback from the minister or their office where they’ve identified:
	1. an error or a quality issue
	2. that the brief does not provide the information the minister originally requested
	3. a need for additional information to be included or other matters to be addressed in a brief to support the minister to make a decision.
21. Except for when an adviser has identified a factual error or a striking quality issue, the request should:
22. be made by the minister, not the ministerial adviser (although it may be communicated through the ministerial adviser)
23. be confirmed by the minister signing and returning the original brief to [DEPARTMENT].
24. include notes from the minister that indicate it has been returned for review and outline the matters [DEPARTMENT] should address.
25. On occasion, in instances in paragraph 76, an adviser will identify these issues and wish to have [DEPARTMENT] update or correct the brief prior to it reaching the minister. In these cases, [DEPARTMENT] will consider the request. If a decision is taken to update the briefing, it should be returned to the minister’s office as quickly as possible with the expectation that the adviser will promptly deliver the brief to the minister.
26. If the request for the amendment has been communicated from the ministerial adviser, the request must be attached to the [FORMAL BRIEFING SYSTEM] record by [MINISTERIAL SERVICES AREA] or the area that developed the brief.

Do we need to make a new brief?

1. Where quality issues have been identified or the requested information was not adequately provided, the original brief can be updated to address the request.
2. Where additional information or new topics are raised, the original brief should be closed, and a supplementary brief prepared to respond to the minister’s request.
3. The supplementary brief should outline the minister’s request and [DEPARTMENT]’s advice in response to the request. The supplementary brief should refer to or attach the original brief.
4. When supplementary advice is requested, the original brief must not be edited and re-submitted, but rather must be replaced.
	1. Cabinet submissions, correspondence, PPQs and related minister-owned products
5. Although they are frequently developed by the department, Cabinet submissions are owned by the minister and therefore can be amended by ministerial staff.
	1. Cabinet submissions are also generally subject to stronger documentation and confidentiality requirements than the department’s policy advice.
	2. Cover briefs that seek the minister’s endorsement of the submission can detail the department’s advice about the content of the submission.
6. For more information on preparing a Cabinet submission please go to [LINK] or contact [CABINET SERVICES AREA].
7. Similarly, replies to correspondence and Possible Parliamentary Questions (PPQs) are also products developed by the department but ultimately owned by the minister.
	1. They can be amended as required by the minister and their staff.
	2. These will often be dealt with in the same way as other products covered by this protocol, but they may have additional requirements.
8. These products may also have briefs from the department attached to them (for example a correspondence cover brief) that provides the department’s advice.
	1. These briefs are subject to the requirements of this protocol and cannot be amended by the minister or their staff.
9. In general, while minister-owned products may have different documentation or development requirements, the engagement a department has with the minister, or their office, on these products must still conform with this protocol.
10. Who should I consult before informing or advising ministers?
11. Advice from [DEPARTMENT] to the minister must represent a whole of [DEPARTMENT] perspective. It should reflect the perspectives of all relevant portfolio areas as well as relevant areas within [e.g., CORPORATE SERVICES, INCL. LEGAL, FINANCE AND OTHER RELEVANT AREAS].
12. Advice with legal or financial implications must be:
	1. developed in collaboration with [LEGAL, FINANCE AND OTHER RELEVANT AREAS]
	2. formally endorsed by executive directors in [LEGAL, FINANCE AND OTHER RELEVANT AREAS], who should sign the brief.
13. **Ensure you engage early with [CABINET AND MINISTERIAL AREA] when developing a Cabinet submission.**
14. **You should consult with [COMMUNICATIONS AND MEDIA AREA] where the matter could have media implications.**
15. Where can I get additional support?

Whole of government resources

* [Victorian Public Sector Commission Guidance - Informing and advising ministers](https://vpsc.vic.gov.au/ethics-behaviours-culture/inform-and-advise-ministers/)
* [Code of Conduct for Victorian public sector employees](https://vpsc.vic.gov.au/ethics-behaviours-culture/codes-of-conduct/code-of-conduct-for-victorian-public-sector-employees/)

[DEPARTMENT] resources

* **[INSERT LOCAL RESOURCES AND LINKS]**
* [Contact details for Secretary’s office]
* [List of staff authorised to engage with ministerial offices]
* [Contact details for DLOs]
* [Contact details for Cabinet/Ministerial Services]
* [Link to or instructions on briefing system]